UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

JOSEPH C. HOLMES,)
Plaintiff,)
v.)) No. 3:08-CV-495
RUSSELL BARKER, et al.,) (Phillips/Shirley)
Defendants.)

MEMORANDUM AND ORDER

On August 14, 2009, the Honorable C. Clifford Shirley, United States Magistrate Judge, filed an 3-page Report and Recommendation (R&R) [Doc. 46] in which he recommended that plaintiff's motion for leave to appeal *in forma pauperis* be denied because plaintiff has not complied with the requirements of 28 U.S.C. § 1915.

This matter is presently before the court on plaintiff's objections to the R&R [Doc. 49]. As required by 28 U.S.C. § 636(b)(1), the court has now undertaken a *de novo* review of those portions of the R&R to which plaintiff objects. After a review of the pleadings in this case, the court finds itself in agreement with Magistrate Judge Shirley that plaintiff has failed to comply with the requirements of 28 U.S.C. § 1915 to file an appeal without payment of fees or costs. In addition, the court also agrees with the magistrate

judge that plaintiff's request to file an interlocutory appeal is premature because plaintiff has

not complied with the requirements of 28 U.S.C. § 1292. Consequently, plaintiff's

objections will be overruled, the R&R will be accepted in whole, and his motion for leave

to appeal in forma pauperis will be denied.

For the foregoing reasons, as well as the reasons articulated by Magistrate

Judge Shirley in his R&R, plaintiff's objections to the R&R [Doc. 49] are hereby

OVERRULED in their entirety whereby the R&R [Doc. 46] is **ACCEPTED IN WHOLE**.

Accordingly, plaintiff's motion for leave to appeal in forma pauperis [Doc. 43] is **DENIED**.

ENTER:

s/ Thomas W. Phillips

United States District Judge

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